

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.9327 of 2006

Between:

D.Sri Ram Murthy.

.. PETITIONER

and

The Commissioner of Police,
Vijayawada and another.

RESPONDENTS

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ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the

action of the respondents in not conducting investigation in respect of Cr.No.429 of 2004 on the file of I Town Police Station, Vijayawada, as illegal and arbitrary.

A counter has been filed by the 2nd respondent stating that pursuant to the complaint filed by the petitioner under Section 200 Cr.P.C. before the II Metropolitan Magistrate, Vijayawada, against one Dowlat Ram Tulasi Das Rajani and another, the same was forwarded to the 2nd respondent for enquiry and report. Accordingly, a case in Cr.No.429 of 2004 was registered on 15-10-2004 for the offences punishable under Sections 420 and 506 IPC and the investigation has been taken up. But, during the course of investigation, it is revealed that no evidence is forthcoming so as to attract the offences punishable under Sections 420 and 506 IPC against the accused. Accordingly, after obtaining permission from the Assistant Commissioner of Police, West Zone, Vijayawada City vide proceedings dated 25-11-2005, for referring the complaint of the petitioner as civil in nature, a notice was sent to the petitioner before filing a final report before the concerned court. However, the petitioner refused to receive the same.

Admittedly, permission has been taken from the Assistant Commissioner of Police vide proceedings dated 25.11.2005 to refer the matter as civil in nature. It is the contention of the respondents that the petitioner refused to receive the notice and therefore, they have not filed the final report before the Court concerned.

Having obtained permission to refer the matter as a civil in nature in November 2005 itself, there is no justification on the part of the 2nd respondent in sending the notice to the petitioner by registered post with acknowledgment due in the year, 2007. The 2nd respondent ought to have sent notice immediately in the month of November, 2005 itself.

When it is the contention that the petitioner refused to receive the notice, it is not known as to what has prevented the respondents from filing the final report before the Court by issuing notice in the year 2005 itself. However, when a final report is prepared deciding that no case is made out or civil in nature or mistake of fact etc., the concerned Investigating Officer shall take simultaneous action to serve notice to the complainant and file the final report before the concerned court.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the 2nd respondent to serve notice to the petitioner and file the final report before the concerned Court, as expeditiously as possible, so as to enable the petitioner to contest the said final report. There shall be no order as to costs.

26-06-2007

Prv